



U.S. Department of Justice
Immigration and Naturalization Service

BZ

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

File:



Office: Texas Service Center

Date:

DEC 29 2000

IN RE: Petitioner:
Beneficiary:



Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

IN BEHALF OF PETITIONER:



Identifying and clearly
prevent clearly identified
breach of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Mary C. Mulrean, Acting Director
Administrative Appeals Office

DEC 29 2000 - 02 01 003

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained and the petition will be approved.

The petitioner seeks to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(A), as an alien of extraordinary ability in the arts. The director determined the petitioner had not established that the beneficiary has earned the sustained national or international acclaim which the statute and regulations require.

On appeal, the petitioner submits further evidence which more clearly demonstrates the beneficiary's accomplishments.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. 204.5(h)(2).

An alien, or any person on behalf of the alien, may file for classification under section 203(b)(1)(A) of the Act as an alien of extraordinary ability in science, the arts, education, business, or athletics. Neither an offer of employment nor a labor certification is required for this classification.

The specific requirements for supporting documents to establish that an alien has achieved sustained national or international acclaim are set forth in the Service regulations at 8 C.F.R. 204.5(h)(3). The relevant criteria will be discussed below. It should be reiterated, however, that the petitioner must show that

the beneficiary has sustained national or international acclaim at the very top level.

The petitioner is a television programming company which seeks to employ the beneficiary as creative director of its Latin American division. The regulation at 8 C.F.R. 204.5(h)(3) presents ten criteria for establishing sustained national or international acclaim, and requires that an alien must meet at least three of those criteria unless the alien has received a major, internationally recognized award. Review of the evidence of record establishes that the petitioner has in fact met more than three of the necessary criteria.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The beneficiary has won several gold, silver, and bronze awards from Promotion and Marketing Executives in the Electronic Media ("PROMAX") and the Broadcast Designers Association ("BDA"). [REDACTED] then president and CEO of PROMAX and BDA, stated in congratulatory letters to the beneficiary that "these awards have been recognized as the industry's highest accolade for creative professionals in television, radio, cable and program distribution worldwide."

Documentation submitted on appeal indicates that the beneficiary is among the individuals behind a television commercial which won a prestigious Clio award in 1999. It is not clear whether the beneficiary himself was among the recipients of the award, but his involvement with the commercial (ranked #2 on an industry list of Argentina's best television advertisements of 1998) is not without weight. We conclude that the petitioner has won national awards in his field, and has played a major role in award-winning projects, such that his efforts contributed to winning the awards.

Published materials about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

Several publications carried a press release from the petitioner, announcing the beneficiary's appearance as a speaker at a "Convention of Short Stories" in Mexico City. Publications with lesser circulations published stories about the PROMAX and BDA awards, with quotations from the beneficiary. The beneficiary has also been the subject of several published interviews. The petitioner has submitted what it identifies as English translations of the articles, but the record lacks copies of the actual published materials themselves.

On appeal, the petitioner demonstrates that the beneficiary is the subject of interviews in Mexico's Telemundo (Revista) and Chile's El Mercurio, both published before the petition's filing date. The record demonstrates that the beneficiary has repeatedly been the subject of media attention, despite working in a capacity which is not always highly "visible" to the mainstream media.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

Evidence submitted on appeal demonstrates that the beneficiary has "participate[d] as a judge" at international PROMAX conferences in 1998 and 1999.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

The initial petition contains no claim in this regard, but on appeal the petitioner argues that it, as a major television organization, is an establishment with a distinguished reputation. This conclusion is certainly difficult to dispute; as major media articles in the record indicate, the network has changed not only the face of television broadcasting, but the music industry itself, greatly expanding the already-significant role of television in the marketing and exposure of musical acts.

The petitioner also contends that the beneficiary plays a leading and critical role as a ranking official of the petitioner's Latin American division. Charlie Singer, the petitioner's vice president of Programming and Production, asserts that the beneficiary's "contribution to our network is priceless and invaluable. He is an integral part of [our] team." We conclude that the beneficiary's position with the petitioner satisfies this criterion.

In review, while not all of the petitioner's evidence carries the weight imputed to it by counsel, the petitioner has established the beneficiary's recognition as an alien of extraordinary ability who has achieved sustained national acclaim and whose achievements have been recognized in his field of expertise. The petitioner has overcome the director's sole stated ground of denial. Therefore, the petitioner has established eligibility for the benefits sought under section 203 of the Act.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has sustained that burden.

ORDER: The decision of the director is withdrawn. The appeal is sustained and the petition is approved.